

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER
01-CR-25A

CATHLEEN A. HAAR
a/k/a CATHY HAAR,

Defendant.

On August 3, 2004, defendant Cathleen Haar was found guilty following a jury trial of one count of conspiracy to possess with intent to distribute marijuana, in violation of 21 U.S.C. § 846. On August 27, 2004, the Court sentenced the defendant principally to 20 months' imprisonment.

Defendant appealed her sentence to the United States Court of Appeals for the Second Circuit. On April 25, 2005, in light of the United States Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005) and the Second Circuit's own decision in United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), the Second Circuit remanded the case to this Court for further proceedings in conformity with Crosby.

On June 1, 2005, the defendant filed a memorandum requesting resentencing. On June 29, 2005, the government filed a memorandum opposing defendant's request. Oral argument on defendant's request was held on July 14, 2005.

After considering the currently applicable statutory requirements as explicated in Booker/Fanfan and Crosby, along with the written submissions of the

parties, and after hearing argument from counsel, the Court denies defendant's request for resentencing. Applying the factors in 18 U.S.C. § 3553(a) to the facts and circumstances existing at the time of the original sentence, the Court finds that it would not have imposed a materially different sentence, even if the original sentencing had occurred under the post-Booker/Fanfan regime.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: October 21 , 2005